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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/823,345	04/12/2004	Tom Bogeskov-Jensen	ACU-9210	4741
28584	7590	02/03/2006	EXAMINER	
STALLMAN & POLLOCK LLP 353 SACRAMENTO STREET SUITE 2200 SAN FRANCISCO, CA 94111			ENSEY, BRIAN	
			ART UNIT	PAPER NUMBER
			2646	

DATE MAILED: 02/03/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/823,345

Applicant(s)

BOGESKOV-JENSEN ET AL.

Examiner

Brian Ensey

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 05 January 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1, 2 and 6 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1, 2 and 6 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Response to Amendment

Applicant's amendment after final rejection submitted on January 5, 2006 has been entered to further clarify the claims. However, upon further examination relevant prior art has been discovered and the finality of the rejection of the last Office action is withdrawn. Claims 1, 2 and 6 remain pending in the current application.

Claim Rejections - 35 USC § 103

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Claims 1 and 6 are rejected under 35 U.S.C. 103(a) as being unpatentable over Braund U.S. Patent No. 6,373,942 in view of Moore U.S. Patent No. 4,901,355 in further view of Braund.

Regarding claim 1, Braund discloses a headset comprising: a support member including (Fig. 8, item 60) formed from a flexible material (See col. 10, lines 24 and 25) and including a curved slot (See fig. 3, item 74 and col. 7, lines 32-37) to be hung from the ear of the user and a speaker transducer (28) that outputs sound in response to a sound signal. Braund further teaches the speaker transducer is located inside the support member in a position which would occlude the ear of the user. Braund fails to teach the support member including no functional components for the operation of the headset; and a deformable clip connected to the transducer and configured to permit attachment of the transducer to the support member. However, Moore

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teaches that it is well known in the art for present headset and earphones to be limited to a single position; whereby existing headsets and earphones enclose the ear, are pressed adjacent to the ear, or, are positioned in the auditory canal (See Moore col. 1, lines 46-50). Further, Moore teaches a support member (38) including no functional components for the operation of the headset; a speaker transducer (14) that outputs sound in response to a sound signal and a deformable clip (41) connected to the transducer and configured to permit attachment of the transducer to the support member (See Fig. 2). Moore also teaches that in the event that the user of the device does not wear spectacles, the clamps permit attachment to other headgear for positioning the speaker transducer near the ear (See Moore col. 4, lines 27-33). It would have been obvious to one of ordinary skill in the art at the time of the invention to locate the speaker (28) of Braund outside near the ear and clipped to the support member as taught by Moore for the purpose of providing the user with the ability to hear surrounding sounds thus enhancing the safety of the user (See Moore col. 1, lines 46-56).

Claim 2 is rejected under 35 U.S.C. 103(a) as being unpatentable over the combination of Braund in view of Moore as applied to claim 1 above, and further in view of Lee U.S. Patent No. 6,038,329.

Regarding claim 2, the combination of Braund in view of Moore teaches a variety of clips (See Fig. 1, item 30) and Fig. 2, item 41) to support the speaker transducer on the support member (See Figs. 2 and 3, item 38). The combination of Braund in view of Moore fails to teach said clip is formed with a U-shaped section located between a pair of opposed legs and wherein the support member is clamped between said opposed legs. However, Lee teaches a U-shaped clip wherein the support member is attached to the clip to hold the transducer on the ear (See Lee

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Fig. 3). Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention that any clip can be used to secure the speaker transducer to a support member and to replace the clip of the combination of Braund in view of Moore with the clip of Lee as an attachment and support device.

Claim 6 is rejected under 35 U.S.C. 103(a) as being unpatentable over the combination of Braund in view of Moore as applied to claim 1 above, and further in view of Clegg U.S. Patent No. 6,490,362.

Regarding claim 6, the combination of Braund in view of Moore discloses a headset as claimed. The combination of Braund in view of Moore discloses a microphone transducer (26a) that outputs a speech signal in response to sound, said microphone transducer being connected to the support member with a pin (114) and clip (112) configuration (See Braund Fig. 8). Further, the use of microphones in headsets is well known in the art and Clegg teaches a microphone transducer (20) mounted in a boom that clips to support member (242) and a speaker transducer (216) attached to a support member with clip member 248 engaged with pin (236) (See Fig. 9 and col. 9, line 58 to col. 10, line 32). It would have been obvious to one of ordinary skill in the art at the time of the invention to provide a clip as an alternative means to attach the microphone transducer to the support member of the combination of Braund in view of Moore for two way communication.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Brian Ensey whose telephone number is 571-272-7496. The examiner can normally be reached on Monday - Friday 6:30 AM - 3:00 PM.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Sinh Tran can be reached on 571-272-7564. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Any response to this action should be mailed to:

Commissioner of Patents and Trademarks
P.O. Box 1450
Alexandria, Va. 22313-1450


Or faxed to:

(571) 273-8300, for formal communications intended for entry and for informal or draft communications, please label "PROPOSED" or "DRAFT".
Hand-delivered responses should be brought to:

Customer Service Window
Randolph Building
401 Dulany Street
Arlington, VA 22314

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

BKE
February 1, 2006


SINH TRAN
SUPERVISORY PATENT EXAMINER